

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

JAMES,

Plaintiff,

v.

SAUERS, et al,

Defendants.

Civil Action No. 14-69

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Plaintiff, an inmate in state custody, filed this civil rights action against Defendants Filtenburger, ASP, Crowder, Tice, Hollis, Sauers, Wilson, Cole, Overmyer, Murn, Gadley, Puhl, Ennis, Apadac, Repco, Simons, and Heberling (“the Commonwealth Defendants”). Plaintiff alleges that the Commonwealth Defendants violated his federal constitutional rights under the First, Eight, and Fourteenth Amendments. He further alleges that the Commonwealth Defendants took retaliatory action against him for submitting grievances and threatening to file a lawsuit.¹ Defendants moved to dismiss Plaintiff’s claims. However, several claims remained following resolution of the motion to dismiss. The parties completed discovery and the Commonwealth Defendants moved for summary judgment, arguing that Plaintiff cannot maintain his retaliation and Eighth Amendment claims.

The Magistrate Judge issued a Report and Recommendation in this matter on January 30, 2018. Dkt. No. 181. In it, the Magistrate Judge recommends that the summary judgment motion be granted as to Plaintiff’s retaliation and Eight Amendment claims based on the revocation of Plaintiff’s Z-code status, but denied as to the excessive force and Eighth Amendment claim based

¹ He also alleges that he was retaliated against for refusing to assault another inmate despite being asked to commit the assault by Defendant Heberling.

on delay of medical treatment.

After reviewing the Report and Recommendation, the record, and all other materials before the Court, and no objection being filed, it is hereby ordered that:

- (1) The Report and Recommendation is ADOPTED;
- (2) The Commonwealth Defendants' summary judgment motion is GRANTED as to Plaintiff's retaliation and Eight Amendment claim based on the revocation of Plaintiff's Z-code status, and DENIED as to Plaintiff's excessive force and Eight Amendment claim based on delay of medical treatment; and
- (3) The Clerk of the Court shall send copies of this Order to Petitioner.

IT IS SO ORDERED.

DATED this 3rd day of March 2018.



BARBARA J. ROTHSTEIN
UNITED STATES DISTRICT JUDGE